

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**FECON, INC.,**

Plaintiff,

v.

**KING KONG TOOLS, LLC, et al.,**

Defendants.

Case No. 1:16-cv-1137

Judge Timothy S. Black

**CONDITIONAL STIPULATION OF  
DISMISSAL**

**TO THE HONORABLE JUDGE BLACK:**

Under Fed. R. Civ. P. 41(a)(2), Plaintiff Fecon, Inc. ("Fecon") and Defendants King Kong Tools, LLC and KingKong-Tools GmbH & Co. KG ("King Kong") file this conditional stipulation of dismissal, which is conditioned upon the Court agreeing to retain jurisdiction over the matter for purposes of enforcing the settlement of the matter, as follows:

**WHEREAS**, Fecon has asserted claims in this action against King Kong, including for patent infringement, breach of contract, misappropriation of trade secrets, violations of the Lanham Act, and violations of the Ohio Deceptive Trade Practices Act;

**WHEREAS**, King Kong has asserted counterclaims against Fecon in this action, including for declaratory judgment of non-infringement, declaratory judgment of invalidity, and breach of contract;

**WHEREAS**, the parties expressly deny any and all such claims asserted against them;  
and

**WHEREAS**, the parties have entered into an agreement to compromise and settle their claims.

**NOW, THEREFORE**, the parties agree and stipulate that, under Fed. R. Civ. P. 41(a)(2), the parties shall voluntarily dismiss this entire case **with prejudice**, except that the invalidity counterclaims asserted by King Kong shall be dismissed **without prejudice**, and the parties shall bear their own fees and costs, including attorneys' fees, conditioned upon the Court's order and agreement to retain jurisdiction of this matter after its dismissal for purposes of enforcing the parties' settlement agreement.

Respectfully submitted,

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/s/ John F. Bennett per 8/24/18 email authorization  
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**CERTIFICATE OF SERVICE**

The foregoing was filed electronically on August 27, 2018. Notice of this filing will be sent by operation of the Court's Electronic Filing System. Parties may access this filing through the Court's filing system. All parties not receiving electronic notices from the Court will be served by regular U.S. mail.

/s/ John F. Bennett

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